

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-369

v.

HON. JANET T. NEFF

FRANK LEE COLE,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Frank Lee Cole has filed a motion for modification or reduction of sentence (Dkt 71) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 79) and a Stipulation (Dkt 80) has been filed by the Government and Defendant.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 79) and the Stipulation (Dkt 80), the Court has determined that the defendant is eligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission. Defendant's sentence is reduced to 120

months imprisonment on each count, to run concurrent, as it is the mandatory minimum on Count Three.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 71) pursuant to 18 U.S.C. § 3582(c)(2) is GRANTED.

DATED: November 17, 2015

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge